

SENATE BILL No. 347

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1; IC 14-25-7.

Synopsis: Water resources. Requires every water utility to develop an asset management plan that includes an inventory of the water utility's critical assets, an evaluation of the condition and performance of the critical assets, and a plan for maintaining, repairing, and, as necessary, replacing the critical assets. Provides for these asset management plans to be submitted to the Indiana finance authority. Requires certain water related state agencies (including the Indiana finance authority, the department of administration, the utility regulatory commission, the department of environmental management, the department of natural resources, and the state department of health) to report annually to the legislative council on water resource issues. Requires each water related state agency to include information in the report on programs under which funds might be available from the federal government for water resource related purposes, as well as applications submitted for those funds, funds received, and uses of the funds received. Requires the utility regulatory commission, before July 1, 2017, to prepare and submit in an electronic format to the executive director of the legislative services agency a report on water loss in Indiana. Defines "water loss" as the difference between: (1) the annual volume of water entering a water distribution system; and (2) the annual volume of metered or unmetered water taken from the water distribution system by registered customers, the water supplier, and others authorized to take water from the water distribution system. Specifies that the report must include findings and recommendations on certain water loss subjects. Shifts primary responsibility for administering the water resources management law originally enacted in 1983 from the natural resources commission to the department of natural resources. Requires

(Continued next page)

Effective: Upon passage; July 1, 2016.

Charbonneau

January 7, 2016, read first time and referred to Committee on Environmental Affairs.



Digest Continued

the Indiana geological survey to perform a quality assurance review of the water resources data compiled from the reports submitted by owners of significant water withdrawal facilities for all calendar years since 1985.



Introduced

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 347

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 8-1-30.5-1.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. As used in this chapter,**
4 **"finance authority" refers to the Indiana finance authority**
5 **established by IC 4-4-11.**
6 SECTION 2. IC 8-1-30.5-2.5 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. (a) Each water utility**
9 **shall develop, for submission to the finance authority, an asset**
10 **management plan that includes, at a minimum, the following:**
11 (1) **An inventory of the critical assets included in the water**
12 **utility's facilities.**
13 (2) **An evaluation of the condition and performance of the**
14 **water utility's critical assets.**
15 (3) **A plan for maintaining, repairing, and, as necessary,**

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replacing the water utility's critical assets (or groupings of critical assets), including plans for the funding of the maintenance, repair, and replacement of the critical assets.

(b) The finance authority may adopt:

- (1) rules under IC 4-22-2 and IC 4-4-11-15(31); or
- (2) guidelines;

concerning the asset management plans to be developed and submitted by water utilities under this section.

(c) The rules or guidelines adopted by the finance authority under subsection (b) may:

- (1) establish requirements for the asset management plans;
- (2) establish a procedure for submission of the asset management plans to the finance authority; and
- (3) determine:
 - (A) how frequently the asset management plans will be submitted; and
 - (B) the purposes for which the finance authority will use the asset management plans submitted under this section.

SECTION 3. IC 8-1-30.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]:

Chapter 30.6. Annual Reporting by Water Related State Agencies

Sec. 1. As used in this chapter, "legislative council" refers to the legislative council established by IC 2-5-1.1-1.

Sec. 2. As used in this chapter, "water related state agency" means any of the following:

- (1) The Indiana finance authority established under IC 4-4-11.
- (2) The Indiana department of administration created by IC 4-13-1-2.
- (3) The Indiana utility regulatory commission created by IC 8-1-1-2.
- (4) The office of utility consumer counselor created by IC 8-1-1.1-2.
- (5) The department of environmental management established by IC 13-13-1-1.
- (6) The department of natural resources created by IC 14-9-1-1.
- (7) The state department of health established by IC 16-19-1-1.
- (8) The Indiana geological survey established as a part of Indiana University by IC 21-47-2.



(9) The Indiana Water Resource Research Center of Purdue University.

Sec. 3. (a) By November 1 of each calendar year, beginning with the 2016 calendar year, the water related state agencies shall submit to the legislative council a report on water resources.

(b) Each water related state agency shall include in the report submitted under this section, to the extent applicable to the water related state agency, the following:

(1) A description of the programs under which funds might be available to the water related state agency from the federal government for water resource related purposes, including:

(A) the amounts of funds available;

(B) the department, agency, or program of the federal government from which the funds are available; and

(C) the particular water resource related purposes for which the funds could be used.

(2) A description of each application for funds the water related state agency has submitted to the federal government, including:

(A) the amounts of funds applied for;

(B) the department, agency, or program of the federal government to which the water related state agency has applied for funds; and

(C) the particular water resource related purposes for which the funds, if obtained, will be used.

(3) Information on all funds obtained from the federal government during the previous fiscal year for water resource related purposes, including:

(A) the amounts of funds obtained;

(B) the department, agency, or program of the federal government from which the water related state agency obtained the funds; and

(C) the purposes for which the funds were or are being used.

Sec. 4. In addition to the reporting requirements described in section 3(b) of this chapter, the following water related state agencies shall include in the report required by section 3 of this chapter the following additional information:

(1) In the report prepared under section 3 of this chapter in calendar year 2016, the Indiana utility regulatory commission shall include a preliminary version of the report being prepared on water loss in Indiana under IC 8-1-30.7.



(2) In the report prepared under section 3 of this chapter in calendar year 2017, the Indiana utility regulatory commission shall include an executive summary of the report on water loss in Indiana prepared under IC 8-1-30.7.

(3) The Indiana utility regulatory commission shall include the annual report to the legislative council required by IC 8-1-30.5-3(c)(1) based upon information collected from water utilities.

(4) The Indiana finance authority shall provide updates to the survey of operations and analysis of planning and long range needs of water utilities prepared by the Indiana finance authority under P.L.91-2015, but only when the Indiana finance authority has updated information to report and considers the information sufficiently significant to merit inclusion in the report.

SECTION 4. IC 8-1-30.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 30.7. Water Loss Accounting

Sec. 1. The general assembly makes the following findings:

(1) Safe and affordable drinking water is essential to public health and economic development throughout Indiana.

(2) The cost of providing reliable drinking water is increasing due to factors such as aging infrastructure, increased energy costs, and complex and costly changes in the regulatory requirements for safe drinking water.

(3) Water main breaks are visible and disruptive manifestations of the more widespread phenomenon of leakage from water systems.

(4) Leakage of drinking water from water distribution systems adds to the cost of service to customers and may lead to increased raw water demands that harm the natural environment.

(5) The failure of water utilities to recover revenue from some of the water delivered to users due to:

(A) metering and billing inaccuracies; and

(B) theft;

increases the cost per unit of water that is billed to customers.

(6) Best management practices suggest that drinking water suppliers conduct an audit of water losses on an annual basis.

(7) Software for use in categorizing and reporting water losses is available without charge.



(8) Regular auditing of water losses is a necessary foundation for the adoption of cost effective strategies to reduce the level of lost water and revenue to economically reasonable levels.

Sec. 2. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

Sec. 3. (a) As used in this chapter, "water loss" means the difference between:

(1) the annual volume of water entering a water distribution system; and

(2) the annual volume of metered or unmetered water taken from the water distribution system by:

(A) registered customers;

(B) the water supplier; and

(C) others who are implicitly or explicitly authorized to take water from the water distribution system.

(b) The term includes the annual volumes lost through:

(1) all types of leaks, breaks, and overflows on mains, service reservoirs, and service connections, up to the point of customer metering;

(2) unauthorized consumption;

(3) all types of metering inaccuracies; and

(4) systemic data handling errors.

Sec. 4. As used in this chapter, "water loss control" means the efforts of water utilities to provide accountability in their operations by reliably auditing their water supplies and implementing controls to minimize system losses.

Sec. 5. As used in this chapter, "water related state agency" means any of the following:

(1) The Indiana finance authority established by IC 4-4-11.

(2) The department of administration created by IC 4-13-1-2.

(3) The commission.

(4) The office of utility consumer counselor created by IC 8-1-1.1-2.

(5) The department of environmental management established by IC 13-13-1-1.

(6) The department of natural resources created by IC 14-9-1-1.

(7) The state department of health established by IC 16-19-1-1.

(8) The Indiana geological survey established as a part of Indiana University by IC 21-47-2.

(9) The Indiana Water Resource Research Center of Purdue



University.

Sec. 6. As used in this chapter, "water utility" means:

- (1) a public utility (as defined in IC 8-1-2-1(a));
- (2) a municipally owned utility (as defined in IC 8-1-2-1(h));
- (3) a not-for-profit utility (as defined in IC 8-1-2-125(a));
- (4) a cooperatively owned corporation;
- (5) a conservancy district established under IC 14-33; or
- (6) a regional water district established under IC 13-26;

that provides water service to the public in Indiana for a fee.

Sec. 7. (a) Before July 1, 2017, the commission, in consultation with:

- (1) any other water related state agencies;
- (2) any political subdivisions (as defined in IC 36-1-2-13);
- (3) any water utilities or organizations of water utilities; and
- (4) any other interested parties;

the commission chooses to consult with, shall prepare and submit in an electronic format under IC 5-14-6 to the executive director of the legislative services agency a report on water loss in Indiana.

(b) The report submitted under subsection (a) must consist of a summary and evaluation of existing data, policies, procedures, and institutional knowledge drawn from publicly available reports and data files of:

- (1) the commission;
- (2) other water related state agencies;
- (3) the United States Environmental Protection Agency; and
- (4) the American Water Works Association.

Sec. 8. The report prepared under section 7 of this chapter must include a discussion of the following:

(1) The overall extent and cost of water loss from the drinking water distribution infrastructure throughout Indiana, including, at a minimum, information that is readily or easily and cost effectively obtainable concerning:

(A) estimates of the volume and economic costs of water loss from water distribution infrastructure;

(B) estimates of the costs associated with water infrastructure failure such as main breaks, system disruption, property damage, and expenditures for treating and pumping unused or lost water; and

(C) evaluation of the impact water loss has on other identified demands for water supply and resource management, including increasing climate related drought, commercial and industrial demand, energy production and



consumption, and related impacts.

(2) Current water loss practices within Indiana and nationally, along with information on the costs and benefits of these practices, including:

(A) a summary of the types of water loss accounting approaches used by public and private water utilities in Indiana;

(B) policies, practices, and procedures in other states that have adopted regulations, standards, or guidance for water loss accounting; and

(C) information that is readily available or easily and cost effectively obtainable regarding:

(i) the identified costs or benefits of the existing water loss accounting activities identified under clauses (A) and (B); and

(ii) the potential costs and benefits to Indiana of implementing standardized water loss accounting.

Sec. 9. The report prepared under section 7 of this chapter must provide recommendations concerning, at a minimum, the following:

(1) Cost effective strategies for Indiana to improve water loss accounting, water loss control, and public transparency concerning water loss conditions, including, at a minimum:

(A) a summary of currently available water loss auditing methods; and

(B) policies and practices to improve public reporting of water losses.

(2) Opportunities to accelerate statewide adoption of water loss accounting and reporting by public water utilities, including a timeline for implementation.

(3) The advisability of:

(A) establishing an external technical advisory committee; and

(B) creating partnerships with nonprofit or civic organizations;

to assist with implementation of recommendations made under subdivisions (1) and (2).

Sec. 10. This chapter expires July 1, 2018.

SECTION 5. IC 14-25-7-10, AS AMENDED BY P.L.95-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 10. (a) The ~~commission~~ **department** shall administer this chapter.



(b) The deputy director for water and resource regulation shall serve as technical secretary to the commission. The deputy director shall perform the duties that are required by this chapter or that the commission directs.

(c) The advisory council established by IC 14-9-6-1 shall serve in an advisory capacity to the commission with respect to the implementation of the commission's powers and duties, including the drafting of rules and development of inventories, assessments, and plans.

(d) For the time that the advisory council is involved in the drafting of rules, the membership of the council shall be augmented as follows:

(1) Two (2) members of the senate, not more than one (1) of whom may be of the same political party, shall be appointed for a term of two (2) years by the president pro tempore of the senate.

(2) Two (2) members of the house of representatives, not more than one (1) of whom may be of the same political party, shall be appointed for a term of two (2) years by the speaker of the house of representatives.

These members are entitled to travel expenses and a per diem allowance as determined by the budget agency for members of boards and commissions generally.

(e) The department shall provide professional, technical, and clerical personnel, equipment, supplies, and support services reasonably required to assist the commission in the exercise of the commission's powers and duties under this chapter. The department shall include money for this purpose in the regular operating budget requests of the department.

SECTION 6. IC 14-25-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 11. The **commission** **department** shall do the following:

(1) Conduct a continuing assessment of the availability of the water resource.

(2) Take and maintain an inventory of significant uses of water withdrawn from the surface or ground.

(3) Plan for the development, conservation, and use of the water resource for beneficial uses.

SECTION 7. IC 14-25-7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 12. The **commission** **department** may do the following:

(1) Collect and disseminate information relating to the water resource.

(2) Consult with and advise all users of the water resource as to



availability of the water resource and the most practical method of water withdrawal, development, conservation, and use.

(3) Make the necessary investigations and inspections for proper administration of this chapter.

(4) Enter at reasonable times with proper notice upon any property other than a dwelling place for the purpose of inspecting and investigating significant water withdrawal facilities or enforcing this chapter.

(5) Establish, by rule, the criteria for the determination of minimum stream flows and minimum ground water levels.

(6) When necessary for the proper administration and enforcement of this chapter, require the metering or other reasonable measurement of water withdrawals from significant water withdrawal facilities and the reporting of the metering or measurement to the ~~commission~~ **department**.

(7) Cooperate with other state and local agencies, other states and their state agencies, and agencies of the United States in water resource development, conservation, and use.

(8) Accept and administer money from any source to aid in carrying out this chapter.

(9) Exercise the additional authority necessary to carry out this chapter.

SECTION 8. IC 14-25-7-12.5, AS ADDED BY P.L.189-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 12.5. (a) The department shall cooperate with the United States Geological Survey to establish a program under which volunteers may monitor the water resource and provide monitoring data to ~~the commission~~; the department and the United States Geological Survey. Data derived from the voluntary monitoring conducted under the program may be:

(1) collected and disseminated by the ~~commission~~ **department** under section 12(1) of this chapter; and

(2) used by the ~~commission~~ **department** in conducting the continuing assessment of the availability of the water resource under section 11(1) of this chapter.

(b) The department may cooperate with other local, state, and federal governmental agencies in implementing this section.

(c) The commission, under IC 4-22-2, ~~and section 10(a) of this chapter~~, may adopt rules concerning the administration of this section. ~~Section 10(c) and 10(d) of this chapter does not apply to the adoption of rules under this subsection.~~

SECTION 9. IC 14-25-7-13 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 13. (a) As used in this
 2 section, "surplus water" means that water found to exceed:

- 3 (1) existing uses; and
 4 (2) reasonably foreseeable needs;

5 in the watershed of origin.

6 (b) The ~~commission~~ **department** shall make and maintain an
 7 inventory of the water resource of Indiana. The inventory must include
 8 an assessment of the following:

- 9 (1) The capabilities of streams to support instream and
 10 withdrawal uses and of aquifers to support withdrawal uses.
 11 (2) Low stream flow characteristics.
 12 (3) Existing uses and projections of beneficial use requirements.
 13 (4) The potential in watersheds for managing flood water for
 14 beneficial uses.
 15 (5) Potential sources and amounts of surplus water available for
 16 transfers.
 17 (6) Other assessment and information considered necessary to
 18 properly define water resource availability.

19 (c) The ~~commission~~ **department** shall maintain, on a continuing
 20 basis and with opportunity for participation and consultation with all
 21 interested persons, plans and recommendations for the development,
 22 conservation, and use of the water resource to best serve the needs of
 23 the people of Indiana for beneficial uses.

24 (d) The ~~commission shall prepare a~~ **department is responsible for**
 25 **the** compilation and mapping of all community public water supplies
 26 in Indiana that serve at least five hundred (500) customers, **as**
 27 **prepared under this chapter by the commission before 2016.** The
 28 ~~commission~~ **department** shall update the compilation and mapping at
 29 least one (1) time every five (5) years. The ~~commission~~ **department**
 30 may use funds from the water resources development fund established
 31 by IC 14-25-2-4 to prepare compilations and mappings under this
 32 subsection. The compilations and mappings prepared under this
 33 subsection must include the following information:

- 34 (1) The location of water sources for community public water
 35 supplies.
 36 (2) The location of treatment facilities used to treat raw water
 37 before the water is distributed to community public water supply
 38 customers.
 39 (3) The extent of water mains in territories served by community
 40 public water supplies.
 41 (4) The population served by community public water supplies.
 42 (5) The total amount of water produced by community public



1 water supplies for the most recent calendar year.

2 SECTION 10. IC 14-25-7-14 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 14. (a) Subject to
4 subsection (c), the ~~commission~~ **department** may determine and
5 establish the minimum flows of streams, taking into account the
6 varying low flow characteristics of the streams of Indiana and the
7 importance of instream and withdrawal uses, including established
8 water quality standards and public water supply needs.

9 (b) The established minimum flows of streams:

10 (1) are those naturally occurring, as determined by the
11 commission; and

12 (2) may be calculated to reflect seasonal and regional variations.

13 (c) For boundary water, the ~~commission~~ **department** may develop
14 mutually agreeable minimum flows of streams in cooperation with the
15 boundary state.

16 (d) The ~~commission~~ **department** may determine and establish the
17 minimum level of ground water in aquifers below which further
18 withdrawals would be significantly harmful to the water resource of the
19 area.

20 SECTION 11. IC 14-25-7-15, AS AMENDED BY P.L.4-2008,
21 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2016]: Sec. 15. (a) As used in this section, "significant water
23 withdrawal facility" means the water withdrawal facilities of a person
24 that, in the aggregate from all sources and by all methods, has the
25 capability of withdrawing more than one hundred thousand (100,000)
26 gallons of ground water, surface water, or ground and surface water
27 combined in one (1) day. Subject to subsection (b), the term does not
28 include:

29 (1) water withdrawal facilities that function as part of the
30 operation or construction of a landfill; or

31 (2) water withdrawal facilities located in or on an off-stream
32 impoundment that is principally supplied by a significant water
33 withdrawal facility.

34 (b) A water withdrawal facility referred to in subsection (a)(1) or
35 (a)(2) located in the basin (as defined in section 1.2 of IC 14-25-15-1)
36 is subject to the registration requirement of section 4.1.3 of
37 IC 14-25-15-1.

38 (c) Every person who has a significant water withdrawal facility
39 shall register the facility with the ~~commission~~ **department** on forms
40 provided by the ~~commission~~ **department** that contain the following:

41 (1) The name and legal address of the registrant.

42 (2) The source of water supply.



- (3) The total capability of the water withdrawal facility.
- (4) The total withdrawal capability per day and the amount from each source.
- (5) The use to be made of the water, the place of use, and the place of discharge.
- (6) The geographic location of the supply source.
- (7) The date of registration.
- (8) Other information specified by rule.

(d) A significant water withdrawal facility must be registered within three (3) months after the facility is completed.

(e) The owner of a registered significant water withdrawal facility shall, within three (3) months after the end of each year, make a verified report to the ~~commission~~ **department** on forms to be provided by the ~~commission~~ **department** of the amounts of water withdrawn during the year.

(f) Under rules adopted by the commission, the department may waive the requirement of the information set forth in subsections (c) and (e) with respect to a temporary significant water withdrawal facility.

SECTION 12. IC 14-25-7-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 18. (a) As used in this section, "quality assurance review" means a process of reviewing and verifying water resources data with the goal of assuring the reliability of the data. The term includes the application of certain objectives, principles, and policies already in use at the Indiana geological survey in maintaining consistency in water resources data and accountability to the scientific community and general public.**

(b) The Indiana geological survey established as a part of Indiana University by IC 21-47-2 shall perform a quality assurance review of the water resources data compiled from the reports submitted by owners of significant water withdrawal facilities under:

- (1) section 15 of this chapter; and**
- (2) IC 13-2-6.1-1 and IC 13-2-6.1-7 (before their repeal);**

beginning with the reports submitted for the 1985 calendar year.

(c) The Indiana geological survey shall present the results of the quality assurance review performed under this section, as those results become available, to the water rights and use section of the department's division of water. The water rights and use section shall maintain the results in the data base of data extracted from



1 **reports submitted by owners of significant water withdrawal**
 2 **facilities under section 15 of this chapter (and IC 13-2-6.1-1 and**
 3 **IC 13-2-6.1-7 before their repeal).**
 4 **SECTION 13. An emergency is declared for this act.**

